

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO.: 5:16-cv-00198-RLV-DSC**

WÄRTSILÄ TECHNOLOGY OY AB and)
WÄRTSILÄ DEFENSE, INC.)

Plaintiffs,)

vs.)

COASTAL SEAL SERVICES, LLC,)

Defendant.)

ORDER

THIS MATTER IS BEFORE THE COURT on Plaintiffs Wärtsilä Technology OY AB's and Wärtsilä Defense, Inc.'s Motion for Summary Judgment (Doc. 17), which seeks judgment in their favor on Defendant Coastal Seal Services, LLC's ("Coastal Seal") Fifth Defense. Subsequent to the Motion for Summary Judgment, the Parties filed a Joint Stipulation of Dismissal with Prejudice of the Fifth Defense ("Stipulation"). (Doc. 22). The Stipulation addresses all the relief sought in Plaintiffs' Motion for Summary Judgment. (*See* Doc. 17; Doc. 17-1 at 1, 6). As a result, the Motion for Summary Judgment (Doc. 17) will be DENIED AS MOOT.

Defendant Coastal Seal, in its Answer, asserted a Fifth Defense ("No Service of Process"): "Attempted Service of Process on Coastal Seal was insufficient as Plaintiffs did not exercise the required due diligence in locating Coastal Seal's registered agent." (Doc. 14 at 10). In January 2017, Plaintiffs filed a Motion for Summary Judgment seeking judgment in their favor and against Coastal Seal "on the defense of insufficient service of process." (Doc. 17 at 1). The Parties subsequently stipulated to "voluntary dismissal with prejudice of Defendant Coastal Seal Services, LLC's Fifth Defense - No Service of Process - only. The stipulation does not affect any other claims or defenses raised by any party in this litigation." (Doc. 22 at 1 (emphasis in original)).

The Parties have not requested this Court to act with respect to the Stipulation.

“A party may move for summary judgment, identifying each claim *or defense* – or the part of each claim or defense – on which summary judgment is sought.” Fed. R. Civ. P. 56(a) (emphasis added). The Plaintiffs limited their Motion for Summary Judgment to Coastal Seal’s Fifth Defense. Thus, the Stipulation resolves the sole matter raised in Plaintiffs’ Motion for Summary Judgment, rendering that Motion moot.

The Court, therefore, will deny the Motion for Summary Judgment in light of the Stipulation. This Order shall not affect the rights of the Parties to file subsequent motions for summary judgment consistent with the Federal Rules of Civil Procedure and Local Rules of the Western District of North Carolina.

IT IS THEREFORE ORDRED THAT Plaintiffs’ Motion for Summary Judgment (Doc. 17) is **DENIED AS MOOT**.

Signed: June 16, 2017

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

